

**ASSEMBLY BILL**

**No. 236**

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**Introduced by Assembly Member Lackey**

February 5, 2015

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An act to amend Section 12701 of the Business and Professions Code, relating to weighmasters.

LEGISLATIVE COUNSEL'S DIGEST

AB 236, as introduced, Lackey. Weighmasters: exemptions: pawnbrokers and secondhand dealers.

Existing law requires a person who weighs, measures, or counts a commodity and issues a statement or memorandum of the weight, measure, or count that is used as the basis for either the purchase or sale of that commodity or charge for service, to obtain a license as a weighmaster from the Department of Food and Agriculture, and imposes a license fee and various other requirements on weighmasters. Existing law exempts specified persons from those provisions by establishing a list of persons who are not weighmasters.

This bill would add licensed pawnbrokers and secondhand dealers to the list of persons who are not weighmasters.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The intent of the Legislature in enacting this
- 2 measure is to clarify that licensed pawnbrokers and secondhand
- 3 dealers are not weighmasters.

(b) The Legislature finds and declares that this clarification is necessary following the enactment of Senate Bill 485 of the 2013–14 Regular Session of the Legislature, and the Department of Food and Agriculture’s subsequent administrative interpretation that pawnbrokers and secondhand dealers are subject to the provisions regulating weighmasters.

SEC. 2. Section 12701 of the Business and Professions Code, as amended by Section 1 of Chapter 693 of the Statutes of 2012, is amended to read:

12701. The following persons are not weighmasters:

(a) Retailers weighing, measuring, or counting commodities for sale by them in retail stores in the presence of, and directly to, consumers.

(b) Except for persons subject to Section 12730, producers of agricultural commodities or livestock, who weigh commodities produced or purchased by them or by their producer neighbors, when no charge is made for the weighing, or when no signed or initialed statement or memorandum is issued of the weight upon which a purchase or sale of the commodity is based.

(c) Common carriers issuing bills of lading on which are recorded, for the purpose of computing transportation charges, the weights of commodities offered for transportation, including carriers of household goods when transporting shipments weighing less than 1,000 pounds.

(d) Milk samplers and weighers licensed pursuant to Article 8 (commencing with Section 35161) of Chapter 12 of Part 1 of Division 15 of the Food and Agricultural Code, when performing the duties for which they are licensed.

(e) Persons who measure the amount of oil, gas, or other fuels for purposes of royalty computation and payment, or other operations of fuel and oil companies and their retail outlets.

(f) Newspaper publishers weighing or counting newspapers for sale to dealers or distributors.

(g) Textile maintenance establishments weighing, counting, or measuring any articles in connection with the business of those establishments.

(h) County sanitation districts operating pursuant to Chapter 3 (commencing with Section 4700) of Part 3 of Division 5 of the Health and Safety Code, garbage and refuse disposal districts operating pursuant to Chapter 2 (commencing with Section 49100)

1 of Part 8 of Division 30 of the Public Resources Code, and solid  
2 waste facilities, as defined in Section 40194 of the Public  
3 Resources Code.

4 (i) Facilities that handle medical waste and that report net  
5 weights, and not estimates, to the generator of the medical waste  
6 and the Department of Public Health in accordance with the  
7 provisions of the Medical Waste Management Act (Part 14  
8 (commencing with Section 117600) of Division 104 of the Health  
9 and Safety Code).

10 (j) Persons who purchase scrap metal or salvage materials  
11 pursuant to a nonprofit recycling program, or recycling centers  
12 certified pursuant to Division 12.1 (commencing with Section  
13 14500) of the Public Resources Code that purchase empty beverage  
14 containers from the public for recycling.

15 (k) Pest control operators licensed pursuant to Chapter 4  
16 (commencing with Section 11701) of Division 6 of the Food and  
17 Agricultural Code.

18 (l) Retailers or recycling centers established solely for the  
19 redemption of empty beverage containers, as that phrase is defined  
20 in Section 14512 of the Public Resources Code, who are weighing,  
21 measuring, or counting salvage or returnable materials for purchase  
22 or redemption by them in retail stores, or, in the case of recycling  
23 centers, on the retail store premises or on a parking lot immediately  
24 adjacent to a retail store—~~which~~ *that* is used for the purpose of  
25 parking by the store customers, directly from and in the presence  
26 of the seller. “Retailer” means an entity—~~which~~ *that* derives 90  
27 percent or more of its income from the sale of small quantities of  
28 food or nonfood items, or both, directly to consumers. “Salvage  
29 materials” means used paper products and used containers made  
30 of aluminum, tin, glass, or plastic.

31 (m) Any log scaler who performs log scaling functions, except  
32 weighing, as defined in the United States Forest Service Handbook,  
33 Supplement No. 4 of March 1987.

34 (n) *Pawnbrokers licensed pursuant to Chapter 3 (commencing*  
35 *with Section 21300) of Division 8 of the Financial Code, and*  
36 *secondhand dealers licensed pursuant to Article 4 (commencing*  
37 *with Section 21625) of Chapter 9 of Division 8, when performing*  
38 *the duties for which they are licensed.*

39 (n)

1 (o) This section shall remain in effect only until January 1, 2017,  
2 and as of that date is repealed, unless a later enacted statute, that  
3 is enacted before January 1, 2017, deletes or extends that date.

4 SEC. 3. Section 12701 of the Business and Professions Code,  
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15 initialed statement or memorandum is issued of the weight upon  
16 which a purchase or sale of the commodity is based.

17 (c) Common carriers issuing bills of lading on which are  
18 recorded, for the purpose of computing transportation charges, the  
19 weights of commodities offered for transportation, including  
20 carriers of household goods when transporting shipments weighing  
21 less than 1,000 pounds.

22 (d) Milk samplers and weighers licensed pursuant to Article 8  
23 (commencing with Section 35161) of Chapter 12 of Part 1 of  
24 Division 15 of the Food and Agricultural Code, when performing  
25 the duties for which they are licensed.

26 (e) Persons who measure the amount of oil, gas, or other fuels  
27 for purposes of royalty computation and payment, or other  
28 operations of fuel and oil companies and their retail outlets.

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30 sale to dealers or distributors.

31 (g) Textile maintenance establishments weighing, counting, or  
32 measuring any articles in connection with the business of those  
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36 Health and Safety Code, garbage and refuse disposal districts  
37 operating pursuant to Chapter 2 (commencing with Section 49100)  
38 of Part 8 of Division 30 of the Public Resources Code, and solid  
39 waste facilities, as defined in Section 40194 of the Public  
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27 *secondhand dealers licensed pursuant to Article 4 (commencing*  
28 *with Section 21625) of Chapter 9 of Division 8, when performing*  
29 *the duties for which they are licensed.*

30 ~~(m)~~

31 (n) This section shall become operative on January 1, 2017.